



CITY OF BOULDER DIVISION OF HOUSING

INCLUSIONARY HOUSING Off-site Process and Timelines

Updated 12/2015

This document contains an overview of the requirements and suggested processes and timelines for meeting Inclusionary Housing (IH) requirements by providing affordable units on a different site than the site that generated the original requirement. This is referred to as the “off-site” option. These processes and timelines may be varied based on specific development needs by the Housing Division Manager.

The Inclusionary Housing Ordinance may be found in Chapter 9-13 of the Boulder Revised Code, 1981 and associated IH Administrative Regulations.

All documents, forms and policies identified in this document may be found on the city website at www.boulderaffordablehomes.com.

Click on Inclusionary Housing and then on Inclusionary Housing Program Details.

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1. Off-site Requirements for Newly Constructed Affordable Units

Depending on the details of the development that generated the affordable housing requirement, off-site affordable units may be provided as for-sale or rental and as a by-right development subject to land use review. These variations may have implications for the process and requirements of Inclusionary Housing.

The table below includes the steps to propose and complete newly constructed affordable units “off-site”. The initial development generating an IH requirement is referred to as the “Sending Site” and the location where the off-site units will be provided is referred to as the “Receiving Site”.

The process outlined in this document is based on the Sending Site being a few months ahead of the Receiving Site in the development process. If the Receiving Site process gets ahead of the Sending Site, Receiving Site approvals may be held up pending Sending Site approvals and execution of required documents. The following table is laid out to indicate the sequence of steps.

Process and Timeline for Providing NEWLY CONSTRUCTED Off-site Affordable Units:

Sending Site	Receiving Site
1. Developments subject to a planning land use review start that process with the planning department.	
2. Discuss options for meeting the IH requirement with a housing planner; choose to provide some or all of the required affordable units off-site.	
3. The IH requirement for the sending site is determined.	
	4. An off-site location is proposed & approved.
5. Planning land use review approval granted. If applicable, complete tec doc process.	
	6. Developments subject to a land use review start that process with the planning department.
	7. IH proposal for sending and receiving sites finalized and approved.
8. Documents and guarantees are executed; may submit for a building permit.	
	9. Documents and guarantees are executed; may submit for a building permit.
	10. Housing Inspections and monitoring.
	11. Marketing of for-sale units or leasing of rental units may be initiated.
	12. Certificate of Occupancy – no later than one year after the sending site receives any temporary or final CO.

1. SENDING SITE – Subject to Planning Land Use Review

Applicants with residential developments subject to Site Review, Use Review or other planning land use approval process start that process with Community Planning & Sustainability (“planning”).

2. SENDING SITE – Inclusionary Housing Discussions

Applicants in a planning land use review process will receive preliminary comments concerning the IH requirement through that process.

Applicants proposing a by-right residential development not subject to a land use process should contact a housing planner as soon as possible prior to building permit submittal.

In either case, the applicant and a housing planner should discuss the options available to meet the IH requirement.

3. SENDING SITE – Inclusionary Housing Requirement

The housing planner will determine the Sending Site IH requirement. The applicant provides the “Unit Data Spreadsheet” in the form of an unlocked EXCEL spreadsheet. The “Unit Data Spreadsheet” may be found on-line at www.boulderadffordablehomes.com click on Inclusionary Housing and then on Inclusionary Housing Program Details.

The IH affordable unit requirement is based on a proportional determination of unit type, number of bedrooms and unit size to what is provided in the market rate units on the sending site. For example, a sending site with half single family homes and half stacked flats will be required to provide half of the affordable units as single family and half as stacked flats. Similarly, if the sending site units are half one bedroom and half two bedroom the affordable units will reflect that mix. The number of required bathrooms is based on the number of bedrooms per the following:

- 0 bedroom - equivalent number of baths in the sending units up to 1
- 1 bedroom – equivalent number of baths in the sending units up to 1.5
- 2 bedroom - equivalent number of baths in the sending units up to 2
- 3 bedroom - equivalent number of baths in the sending units up to 2.5
- 4 bedroom - equivalent number of baths in the sending units up to 2.5

The sizes of the affordable units are determined based on a percentage of the average size of the units on the sending site by bedroom/bathroom configuration as follows:

	Rental	For-sale
Single family	min. 80%	min. 48%
Multi-family	min. 80%	min. 80%

For-sale developments must provide for-sale affordable units. Rental developments may provide either for-sale or rental affordable units. The initial sales price is determined by the city to be affordable to a household earning no more than the HUD low income limit for their family size, or

approximately 66% of the area median income. Prices are adjusted quarterly. Pricing is determined when the deed restricting covenant is executed. Rents are set by the city to be affordable to a household earning no more than 60% of the area median income. Rents are adjusted annually.

The minimum IH unit requirements may be exceeded at the developer's option and in some cases may result in a higher initial sales price or rent. If additional affordable units are provided city consideration may be considered.

Once the IH requirement for the Sending Site is determined, a proposal for the Receiving Site may be discussed and proposed.

4. RECEIVING SITE – Off-site Location Approval

Off-site proposals for newly construction affordable units must first have the proposed off-site location approved. The off-site location request will be reviewed to determine the degree to which it meets the following criteria:

- a. Consistent with Boulder Valley Comprehensive Plan policies for affordable housing, including 7.13 (Integration of Permanently Affordable Housing) to disperse and integrate affordable housing throughout the community;
- b. Annexed and zoned for residential use;
- c. Consistent with the land use map and the service area map;
- d. Consistent with any applicable adopted area plans;
- e. Able to support multi-modal mobility (walking, biking, and other alternatives to the single-occupant vehicle); and
- f. Compatible with adjacent uses.

Process:

Applicant submits a Pre-Application Review form to the department of Community Planning and Sustainability which includes a letter detailing specifically how the proposed location (the receiving site) will meet the above criteria. In addition, the Pre-Application process may also be used to request verification of the maximum residential unit density and to answer other questions the applicant may have about the proposed site.

Staff will review the application and letter to determine if there is sufficient detail to evaluate if the proposed location adequately meets the criteria. Staff may request additional information required to make this determination. After submittal, the applicant may request a meeting with staff to discuss the pre-application.

Staff will notify the applicant in writing within 15 to 20 business days starting on the first Monday after the application is received by the city, if the off-site location is approved, approved with conditions or not approved, including a response to other questions in the pre-application.

Approval of a potential receiving site location is the first step towards approval of a proposed off-site development, however it does not ensure the off-site development will be approved. Once a determination is made the applicant may request a meeting to discuss decision and/or the comments.

5. SENDING SITE – Land Use Review Approval

Upon Sending Site land use approval, the IH requirement for the Sending Site is final and may be used to develop the Receiving Site proposal.

It is assumed that the Sending Site will get approvals and start development before the Receiving site. If the Receiving Site process gets ahead of the Sending Site, Receiving Site approvals may be held up pending Sending Site approvals and execution of required documents.

Sending Site developments subject to technical document review should start that process with the Planning Department. Steps 6-9 below may be completed concurrent to the technical review process.

6. RECEIVING SITE – Land Use Review Approval

Receiving site developments are subject to review as follows:

- *Site Review* – When a sending site is required to successfully complete Site Review the receiving site development must also successfully complete Site Review. Successful completion of Site Review is required prior to issuance of a building permit.
- *Off-Site Affordable Housing Design Review* – Developments with 5 or more units that are not required to complete Site Review must complete the Off-site Affordable Housing Design Review. Successful completion of this review is required prior to issuance of a building permit. For receiving site developments subject to other land use approvals this review may be conducted concurrently with other land use reviews.

7. RECEIVING SITE – Requirements

The receiving site will be assessed an inclusionary housing requirement in the same manner as the sending site (see #3 above). The requirements are combined to determine the total IH requirement for both sites.

The receiving site proposal should meet both the sending and receiving site IH requirements however, minor variations may be considered. In this case the applicant and housing planner will discuss equivalencies based on additional community benefit. A cash-in-lieu contribution or a downward adjustment to the maximum allowable sales price or rent may be required to make up any deficiencies.

An assessment of the proposed units for meeting the Livability Standards for Permanently Affordable units will be made. The Livability Standards may be found on-line at www.boulderaffordablehomes.com.

Timing - All Receiving Site affordable units must achieve a temporary certificate of occupancy within one year of the issuance of any temporary or final certificate of occupancy on the Sending Site.

8. SENDING SITE – Requirements Prior to Building Permit

The following are required prior to building permit submittal for the sending site:

- a. *Land Use Review* - approval
- b. *Inclusionary Housing Agreement for Newly Constructed Off-site Affordable Units (the "Off-site Agreement")* – Documents all requirements and responsibilities for the off-site development
- c. *Determination of Inclusionary Housing Compliance* - Documents the IH requirement for the Sending Site.
- d. *Receiving Site Location* - approval

The following are required prior to building permit issuance for the sending site:

- a. *Financial Guarantee* - security is provided to ensure the affordable units are completed. For details concerning the financial guarantee please see the full policy available on-line at: www.boulderaffordablehomes.com click on Inclusionary Housing and then on Inclusionary Housing Program Details.

9. RECEIVING SITE – Requirements Prior to Building Permit

All documents for the Sending Site per #8 above must be completed and accepted by the city. The following are required prior to building permit submittal for the Receiving Site:

- a. *Inclusionary Determination of Inclusionary Housing Compliance* - Documents the IH requirement for the Receiving Site
- b. *Land Use Review* approval
- c. *Livability Review* – successful completion and city acceptance of check-list I

The following are required prior to building permit submittal for the Receiving Site

- d. *Cash-in-lieu* - if applicable
- e. *Deed restricting Covenants* for all affordable units
- f. *Livability Review* –city acceptance of check-list II

11. RECEIVING SITE – Housing Inspector

The city will utilize a housing inspector to ensure quality construction and compliance with all affordable housing requirements and agreements. The Sending Site owner may be responsible for the costs of the inspections.

12. RECEIVING SITE – Final Certificates of Occupancy

The following items will be finalized once all of the receiving site affordable units are completed:

- a. *Housing inspection costs* - If the final cost was in excess of the estimate paid at building permit issuance, the balance will be due to the city. If the final cost was less than the estimate paid at building permit issuance, the applicant shall receive a refund of the excess amount. Details on the housing inspector and associated costs may be found in the *Off-site Agreement Summary*.
- b. *Financial Guarantee* - The financial guarantee will be released when all of the off-site agreement requirements have been met, primarily that the affordable units have been

accepted by the city, issued final CO's and a deed restricting covenant has been executed and recorded.

- c. *Financial Guarantee Annual Adjustments* – Determination and payment of any annual adjustments to the financial guarantee.

2. Off-site Requirements when Deed Restricting Existing Units

Depending on the details of the development that generated the affordable housing requirement, off-site affordable units may be provided as for-sale or rental. The site where the affordable units are located may either allow for a by-right project or be subject to land use review. These variations may have implications for the process and requirements of Inclusionary Housing.

The table below includes the steps to propose deed restricting existing units “off-site”. The initial development generating an IH requirement is referred to as the “Sending Site” and the location where the off-site units will be provided is referred to as the “Receiving Site”.

The process outlined in this document is based on the Sending Site being a few months ahead of the Receiving Site in the development process. If the Receiving Site process gets ahead of the Sending Site, Receiving Site approvals may be held up pending Sending Site approvals and execution of required documents.

The following table is laid out to indicate the sequence of steps.

Process and Timeline for DEED RESTRICTING EXISTING UNITS Off-site

Sending Site	Receiving Site(s) Off-site Existing Units
<ol style="list-style-type: none"> 1. Developments subject to a planning land use review start that process with the planning department. 2. Discuss options for meeting the IH requirement with a housing planner; choose to provide some or all of the required affordable units off-site. 3. A preliminary estimate of the IH requirement for the Sending Site is determined and existing units may be proposed. 	
	<ol style="list-style-type: none"> 4. Off –site location approval & existing unit preliminary proposal.
<ol style="list-style-type: none"> 5. Land use approval granted. If applicable, start tec doc process. 6. Sending Site IH program finalized. 	
	<ol style="list-style-type: none"> 7. Final IH and rehabilitation proposal approved.
<ol style="list-style-type: none"> 8. Documents are executed; may submit for a building permit. 	
	<ol style="list-style-type: none"> 9. Housing Inspections 10. Letter of completion & Covenants– no later than one year after the sending site receives any temporary or final CO

1. SENDING SITE – Subject to Planning Land Use Review

Applicants with residential developments subject to Site Review, Use Review or other planning land use approval process start that process with Community Planning & Sustainability (“planning”).

2. SENDING SITE – Initial Inclusionary Housing Discussion

Applicants in a planning land use review process will receive preliminary comments concerning the IH requirement through that process.

Applicants proposing a by-right residential development not subject to a land use process should contact a housing planner as soon as possible prior to building permit submittal.

In either case, the applicant and a housing planner should discuss the options available to meet the IH requirement.

3. SENDING SITE – Preliminary IH Requirement

The housing planner will provide a preliminary estimate for the Sending Site IH requirement. The applicant will need to provide the “Unit Data Spreadsheet” in the form of an unlocked EXCEL spreadsheet. The “Unit Data Spreadsheet” may be found on-line at www.boulderaffordablehomes.com click on Inclusionary Housing and then on Inclusionary Housing Program Details.

The IH requirement is a 20% proportional determination of unit type, number of bedrooms and unit size to what is provided on the sending site. For example, a sending site with half single family homes and half stacked flats will be required to provide half of the affordable units as single family and half as stacked flats. Similarly, if the sending site units are half one bedroom and half two bedroom the affordable units will reflect that mix. The number of required baths are based on the number of bedrooms per the following:

- 1 bedroom – equivalent number of baths in the sending units up to 1.5
- 2 bedroom - equivalent number of baths in the sending units up to 2
- 3 bedroom - equivalent number of baths in the sending units up to 2.5
- 4 bedroom - equivalent number of baths in the sending units up to 3

The size of the affordable units is determined based on a percentage of the average size of the units on the sending site by bedroom/bathroom configuration as follows:

	Rental	For-sale
Single family	min. 80%	min. 48%
Multi-family	min. 80%	min. 80%

The initial sales price is set to be affordable to a household earning no more than the HUD low income limit for their family size, or approximately 70% of the area median income. Prices are adjusted quarterly. Pricing is determined at the time the deed restricting covenant is executed.

Rents are set to be affordable to a household earning no more than 60% of the area median income. Rents are adjusted annually.

In all cases, the minimum standards may be exceeded at the developer's option and in some cases may result in a higher initial sales price or rent.

Sending Sites subject to Site Review will receive a preliminary determination for the IH requirement that may change based on final site review approval. By-right developments will receive a final determination for the IH requirement assuming that what was provided to the housing planner is the same as what is submitted for a building permit.

4. RECEIVING SITE – Off-site Location Approval & preliminary approval

Off-site proposals for deed restricting existing units to meet and IH requirement off-site must first have the proposed off-site location approved. The off-site location request will be reviewed to determine the degree to which it meets the following criteria:

- g. Consistent with Boulder Valley Comprehensive Plan policies for affordable housing, including 7.13 (Integration of Permanently Affordable Housing) to disperse and integrate affordable housing throughout the community;
- h. Annexed and zoned for residential use;
- i. Consistent with the land use map and the service area map;
- j. Consistent with any applicable adopted area plans;
- k. Able to support multi-modal mobility (walking, biking, and other alternatives to the single-occupant vehicle); and
- l. Compatible with adjacent uses.

Process:

Applicant submits a Pre-Application Review form to the department of Community Planning and Sustainability (http://www.bouldercolorado.gov/www/publications/forms/201_pre-app.pdf). Include a letter detailing specifically how the proposed location (the receiving site) will meet the above criteria. In addition, the Pre-Application process may also be used to request verification of the maximum residential unit density and to answer other questions the applicant may have about the proposed site.

Staff will review the application and letter to determine if there is sufficient detail to evaluate if the proposed location adequately meets the criteria. Staff may request additional information required to make this determination. After submittal, the applicant may request a meeting with staff to discuss the pre-application.

Staff will notify the applicant in writing within 15 to 20 business days starting on the first Monday after the application is received by the city, if the off-site location is approved, approved with conditions or not approved, including a response to other questions in the pre-application.

Approval of a potential receiving site location is the first step towards approval of a proposed off-site development, however it does not ensure the off-site development will be approved. Once a determination is made the applicant may request a meeting to discuss decision and/or the comments.

Preliminary Proposal

Once a preliminary estimate of the IH requirement for the Sending Site is determined and the off-site location is approved, existing units may be proposed to meet the IH requirement. The existing unit mix should substantially reflect the Sending Site requirement however, minor variations due to existing unit constraints may be considered.

To assess the proposed program, the applicant provides the housing planner with a **preliminary proposal** summarizing the Sending Site IH requirement and proposed existing building and/or individual unit(s) that will be deed restricted. Include details on how the proposal meets the Sending Site IH requirement and the preliminary criteria below.

After a walk-through of the proposed affordable unit(s), the city will issue a “Preliminary Proposal Determination” letter indicating the proposed units(s) meet the preliminary criteria pending acceptable rehabilitation and you can move forward in the process with the proposed units.

Detached Single Family Home Preliminary Criteria:

- a. Determination that the property is habitable and in good condition and can be successfully rehabilitated to meet the final requirements as an affordable home.
- b. Minimum 1,200 square feet of finished space the majority of which must be above grade but can include finished basement space w/ egress. Total size may be up to 2,000 square feet.
- c. 3 or more bedrooms above grade or with egress that meets code requirements.
- d. One and one half (1.5) or up to 3 bathrooms.
- e. Not located in a majority student neighborhood preferred.
- f. Not located on a block with a high percentage of pre-existing affordable housing units preferred.
- g. No portion of the property in the 100-year flood plain or the high hazard or conveyance zones.
- h. Home must have been constructed after 1980.

Attached Home Preliminary Criteria:

- a. Determination that the property is habitable and in good condition and can be successfully rehabilitated to meet the final requirements as an affordable home.
- b. Not located in a majority student neighborhood preferred.
- c. Not located in a building or development with greater than 20% pre-existing affordable housing units preferred.
- d. No portion of the property in the 100-year flood plain or the high hazard or conveyance zones.
- e. Home must have been constructed within the last ten years from the date of the proposal.

5. SENDING SITE – Land Use Approval

Once the Sending Site planning land use approval is finalized, the IH requirement for the Sending Site can be finalized. The final IH requirement on the Sending Site is used to finalize the Receiving Site proposal.

It is assumed that the Sending Site will get approvals and start development before the Receiving site. If the Receiving Site process gets ahead of the Sending Site, Receiving Site approvals may be held up pending Sending Site approvals and execution of required documents.

Sending Site developments subject to technical document review should start that process with the Planning Department. Steps 6-9 below may be completed concurrent to the technical review process.

6. SENDING SITE – IH Program Finalized

If there are any changes to the sending site from the time the preliminary IH requirement was done, the requirement may need to be adjusted. The final requirement will include the type and number of units, size, number of bedrooms and baths.

7. OFF-SITE EXISTING UNITS – Final IH & Rehabilitation Proposal

Once a final IH requirement for the Sending Site is determined, the off-site proposal may be finalized. The units and rehabilitation required should be agreed on and understood by the city and applicant prior to Sending Site building permit submittal.

Timing - All Receiving Site affordable units must achieve a city issues Letter of Completion following final inspections within one year of the issuance of any temporary or final certificate of occupancy on the Sending Site.

The applicant provides the housing planner with a **final proposal** that includes the following (each item is described below):

- a. Summary of the Sending Site IH requirement and details on how the proposal meets the Sending Site IH requirement
- b. Proposed existing building and date and case number of the location approval (see number 4 above) or location of the individual unit(s) that will be deed restricted
- c. Home inspection report with information on how each item will be addressed
- d. Staff inspection report with information on how each item will be addressed
- e. Rehabilitation proposal
- f. Details on how the proposal will meet the final criteria

Sending Site IH Requirement

The proposal should substantially reflect the Sending Site requirement however, minor variations due to existing constraints may be considered. In some cases, the IH requirement for the Sending Site and proposed program for the will not match exactly. In this case the sending site applicant and housing planner will discuss equivalencies based on additional community benefit. A cash-in-lieu contribution or a downward adjustment to the maximum allowable sales price or rent may be required to make up any deficiencies.

Home Inspection Report

The Owner will hire, at the Owner's expense, an ASHI-certified home inspector (or other nationally recognized home inspection program) to complete a comprehensive inspection. A critical needs assessment may be provided in place of the home inspection if approved by the City Manager. In addition, city housing staff will inspect the home.

Rehabilitation Program

The applicant may propose a rehabilitation program which will be subject to city review and approval. City approval will be based on the proposal addressing all items identified in the home inspection, meeting the criteria listed below and the completed units be comparable to what would have been provided in a newly constructed unit on the sending site. Finishes do not have to be exactly the same as the sending site market finishes but should be functionally equivalent. For example counter tops in the market units may be granite, the affordable unit counters may be laminate.

Final Criteria

The following requirements and standards must be met for the property to be deemed acceptable as a permanently affordable unit. Exceptions may be considered by the city on an individual unit basis. Replacement does not apply to items maintained by the HOA however these items must be in excellent condition:

- a. Meets all Livability Standards.
- b. No HOA dues are preferred; single family homes must be below \$50/month, and multi-family homes below \$250/month.
- c. The HOA must have adequate capital reserves for major capital expenditures anticipated in the subsequent 10 year period.
- d. Kitchen and baths have finishes and fixtures similar to new products or replaced.
- e. Muted, neutral paint, trim, tile and cabinet colors in excellent condition or replaced.
- f. Appliances that are in excellent condition or under warranty or replaced.
- g. Floor in excellent condition or replaced; wood floors in excellent condition or refinished.
- h. Attractive, thriving, complete landscaping or replacement.
- i. Windows sealed and refinished or repainted or replaced.
- j. Systems, heating, plumbing, electrical, roof, foundation, structure, driveway in average or above average condition with no additional work anticipated in the next five years or replaced.
- k. Clean and insured title.
- l. Home is eligible for FHA financing.

Agreements

Details of the proposal as agreed upon by both the city and applicant will be included in a "Determination of Inclusionary Housing Compliance" form and in an "Off-site Deed Restricting Existing Unit Agreement".

8. SENDING SITE – Requirements for a Building Permit

The following are required prior to building permit submittal for the sending site:

- a. *Preliminary Proposal Determination* letter from city indicating the proposed units(s) meet the preliminary criteria pending acceptable rehabilitation
- b. *Off-site Location Approval* letter
- c. *Inclusionary Housing Agreement for Existing Unit Off-site Affordable Housing (the "Off-site Agreement")* documents city acceptance of the final proposal including all requirements and responsibilities.
- d. *Determination of Inclusionary Housing Compliance form* - Documents the basic agreement for the sending site IH requirement and how it will be met

The following are required prior to building permit issuance for the sending site:

- a. *Financial Guarantee* - provided as security

9. OFF-SITE EXISTING UNITS – Housing Inspector

The city may utilize a housing inspector to ensure quality construction and compliance with all affordable housing requirements and agreements. The Sending Site owner may be responsible for the costs of the inspector.

10. OFF-SITE EXISTING UNITS – Final Inspections, Covenants

Once the Applicant completes the rehabilitation, passes any applicable building and housing inspections, receives a letter of completion from the city and the housing inspector verifies all contractual obligations and standards have been met the following items will be finalized:

- a. *Covenant* - A deed restricting covenant for each affordable unit is executed
- b. *Housing inspection costs* - reconciled
- c. *Financial Guarantee* - The financial guarantee will be released when all of the off-site Agreement requirements have been met, primarily that the affordable units have been issued a letter of completion and a deed restricting covenant has been executed and recorded.